IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 2362 OF 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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VAJSURBHAI APABHAI - Petitioner(s)
Versus
STATE OF GUJARAT & ORS. - Respondent(s)

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Appearance :
SHRI P.V. HATHI for Petitioner(s).
SHRI A.Y. KOGJE, ASST. GOVERNMENT PLEADER for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 10/01/2007

ORAL JUDGMENT

1. By this petition, the petitioner seeks a direction against the State Government/Competent Authority under the Agricultural Land Ceiling Act that in accordance with the directions given in Revision

Application No.TEN.B.R.39/85 decided on 23rd January, 1987, the State should offer choice to the petitioner to surrender particular land. It is the submission of the petitioner that despite such mandatory orders of the Tribunal, which are binding upon the Collector and the Mamlatdar, they have started acting in a high-handed manner, taken possession of some other property without giving any choice to the petitioner and started process for allotment of the same.

2. The Mamlatdar/ALT, Taluka: Khambha, District: Amreli and the Collector, District: Amreli, are in attendance. They submitted that much before the order was made by the Tribunal, the father of the present petitioner had expressed his choice and under a *bona fide* impression that the choice given by the father would bind the son, they had taken possession of the property. They, however, submit that they are ready and willing to repair the damage and correct their mistake. It is the submission of the Collector and the Mamlatdar that the land, from which the petitioner was dispossessed, is still in possession of the State and the same has not been allotted to anybody. They assure the Court that choice would be offered to the petitioner and in accordance with the choice proposed by the petitioner,

possession of the land would be taken. This satisfies the learned Counsel for the petitioner.

3. The petition is disposed of with the following directions:

(i) Within a period of four weeks from today, the Mamlatdar-cum-ALT shall issue necessary notice to the petitioner to propose his choice in relation to surrender of particular land of particular Survey Number, totaling 12 Acres and 9 Gunthas; if the petitioner offers the very same Survey Numbers from which he has been dispossessed, then, that would be end of the matter, but, in case he offers any other Survey Number, then, after surrender of the land comprising under the said Survey Number, the State, through the Mamlatdar-cum-ALT, shall deliver back the possession of the land from which the petitioner has been dispossessed.

In case possession of the land other than the land in dispute is surrendered by the petitioner and possession of the land in dispute is handed over to the petitioner, the

Mamlatdar shall issue necessary orders for correction of the revenue entires already made.

(ii) The process shall be completed by the Mamlatdar within a period of four months from the date of appearance of the petitioner in response to the notice to be issued by the Mamlatdar. The Mamlatdar and the Collector are hereby forewarned that if this time, they do not observe the spirit of this order, read with the order passed by the Revenue Tribunal, then, they would be exposing themselves to a serious risk. The Collector shall personally monitor the proceedings.

Rule is made absolute. No costs.

[R.S.Garg, J.]

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